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IN THE UNITED STATES DISTRICT COURT FOR THE

SOUTHERN DISTRICT OF CALIFORNIA

DEENA DEARDURFF SCHMIDT, Plaintiff, v. BOARD OF TRUSTEES OF THE CALIFORNIA STATE UNIVERSITY, SAN DIEGO STATE UNIVERSITY, JEFF SCHEMMEL, DOES 1-15, Defendants.	CASE NO. 07-CV-2343DMS(WMC) **EX PARTE APPLICATION FOR ORDER COMPELLING DEFENDANTS TO PRODUCE UNREDACTED COPIES OF ALL DOCUMENTS CONTAINED IN INITIAL DISCLOSURES**

Plaintiff DEENA DEARDURFF SCHMIDT applies to the Court *ex parte* for an order compelling Defendants BOARD OF TRUSTEES OF THE CALIFORNIA STATE UNIVERSITY, SAN DIEGO STATE UNIVERSITY, and JEFF SCHEMMEL to produce unredacted copies of all documents produced with their Federal Rules of Civil Procedure Rule 26(a) initial disclosures by April 16, 2008, before the early neutral evaluation settlement conference scheduled to be held on April 21, 2008.

Good cause exists for this *ex parte* application:

- Plaintiff has a right to obtain all documents that Defendants may use in support of their defenses pursuant to Fed. R. Civ. Proc. Rule 26(a)(1)(A)(ii).

- Certain documents Defendants produced with their initial disclosures have been redacted allegedly due to their Federal Educational Rights and Privacy Act ("FERPA") obligations which *may* require Defendants to first obtain parental/student consent or a court order prior to disclosing "education records" or information derived from such records.
- FERPA does not apply to the redacted documents because they are not "education records."
- Even if FERPA applied, the author of the communications fall within FERPA's "directory information" exemption.
- FERPA also includes a judicial order exception to their confidentiality requirements.
- Plaintiff's counsel has met and conferred with counsel for Defendants and cannot obtain unredacted copies of the documents in time for the settlement conference unless a court order is issued by this Court *ex parte*.
- Plaintiff will be irreparably prejudiced if the *ex parte* motion is heard according to the regular noticed motion procedures because Plaintiff will not be able to properly prepare for her participation in the early neutral evaluation settlement conference scheduled for April 21, 2008, without the unredacted documents.

Plaintiff respectfully requests this Court grant her application for an order compelling Defendants to produce un-redacted copies of all documents produced with their initial disclosures.

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This application is based upon the attached memorandum of points and authorities, declaration of counsel, and the files and records of this case.

Dated: April 7, 2008

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